Writ Petition no. 230(S/S) of 2003

Ved Pal Malik------- Petitioner

Versus

State of Uttaranchal and others Respondents

Hon'ble M.M. Ghildiyal J.

By means of this writ petition the petitioner has challenged the transfer order dated 29.05.2003 passed by the Additional Director, Animal Husbandry Uttaranchal Gopeshwar, district Chamoli transferring the petitioner from Rishikesh district Dehradun to Pithoragarh.

Heard Sri J.P.Joshi learned counsel for the petitioner and learned Additional Chief Standing Counsel.

The learned counsel for the petitioner has challenged the transfer order mainly on three grounds. Firstly, that though the transfer order has been passed by the Additional Director, he has not applied his mind and the transfer order has been passed on the dictate of higher authority which is clear from the transfer order itself. The impugned order states that the transfer of the petitioner is being made on the direction on telephone from the higher authority. The second ground which the learned counsel for the petitioner has pressed is that the authority who has transferred the petitioner by order dated 29.05.2003 has himself written a letter dated 10.04.2003 to the government for transfer of the petitioner and has further stated that he is not competent to transfer the petitioner and as such the petitioner may be transferred by the government. The third submission of the learned counsel for the petitioner is that the transfer of the petitioner has been made only to accommodate one Sri Dhirendra Singh Sajwan from Pithoragarh for the reasons best known to him.

Learned Additional Chief Standing Counsel has filed counter affidavit. In the counter affidavit he has submitted that there were so many complaints against the petitioner and as such he was transferred. In case the transfer order has been passed on the complaints the same will amount to punishment which cannot be awarded without hearing the petitioner. In case, there are complaints against the petitioner the respondents were free to take action against the petitioner in accordance with law. The Learned Additional C.S.C. has fairly conceded that the transfer has been made on the dictates of

higher authorities and the transferring authority has not applied his mind. He could not show who is the competent authority to transfer the petitioner. In the letter dated 10.04.2003 the Additional Director has himself admitted that he is not a competent authority to transfer the petitioner and as such the transfer order is without jurisdiction. Further, it seems that the order has been passed to accommodate one Sri Dhirendra Singh Sajwan because is the letter dated 10.04.2003 the Additional Director has requested the government to transfer the petitioner from Rishikesh to Pithoragarh in place of Sri Dhirendra Singh Sajwan from Pithoragarh may be posted at Rishikesh Learned Additional C.S.C. could not show the reason why a particular man was recommended by the Additional Director to be placed at Rishikesh and later on though he was not a competent authority has transferred Sri Dhirendra Singh Sajwan from to Pithoragarh to Rishikesh in place of the petitioner which shows that the transfer order has been passed just to accommodate Sri Dhirendra Singh Sajwan.

For the reasons stated above, the writ petition is allowed. The transfer order dated 29.05.2003 transferring the petitioner from Rishikesh to Pithoragarh is quashed. No order as to costs.

(M.M. Ghildiyal, J.)

July 15 2003
MPS